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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/248,738	02/10/1999	DAVID A. BEYER	003867.P001	9149
32294	7590	04/22/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P.			HARPER, KEVIN C	
14TH FLOOR			ART UNIT	
8000 TOWERS CRESCENT			PAPER NUMBER	
TYSONS CORNER, VA 22182			2666	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/248,738

Applicant(s)

BEYER ET AL.

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,9-12,16-19,21,23-47,49-52 and 55-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,11,12,16-19,21,23-47,49-52 and 55-60 is/are allowed.
- 6) ☒ Claim(s) 1,4,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

Applicant's arguments, filed May 17, 2004, with respect to claims 26-40, 45-47, 49-52, 55-59 have been fully considered and are persuasive. The rejection of these claims has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Baker et al. (US 6,292,494)

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Baker et al. (US 6,292,494).

1. Regarding claims 1 and 4, Baker discloses a method comprising activating a node of a computer network (fig. 2, item 200) such that the node first attempts to establish contact with other nodes that may exist within the computer network (col. 7, lines 27-30 and 37-40) by cycling through a set of common wireless channels for communication within the computer network (fig. 2, steps 210 and 218-220). The method comprises the node attempting to establish contact at each channel (fig. 2, steps 216-220) by transmitting a request packet including a code identifying the network (col. 4, lines 50-53 and 60; note: domain ID - col. 3, lines 34-45), listening on the channel for a response packet before proceeding to the next common channel (fig. 2, step 218; col. 7, lines 40-42), where the response packet includes a code identifying the

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network of the request packet (col. 5, lines 1-3 and 11; note: domain ID), and entering a synchronization mode (col. 7, lines 44-45) and joining the computer network (col. 7, lines 57-58). If unsuccessful in establishing contact with other nodes, the node establishes itself as a single node network (note: the node remains unconnected to a network if it is unsuccessful in establishing contact with other nodes; fig. 2, step 218 - no and step 210 - no).

2. Regarding claim 9, while the node is established as a single node network, the node listens for attempts by further nodes to join a network (fig. 2, 218-no, and item 210).

3. Regarding claim 10, if the node detects attempts to join a network (fig. 2, item 210), the node transmits a response thereto (fig. 2, step 222, step 210-yes and step 212; col. 8, lines 55-60; col. 7, lines 37-39).

#### ***Allowable Subject Matter***

4. Claims 6, 11-12, 16-19, 21, 23-47, 49-52 and 55-60 are allowed.

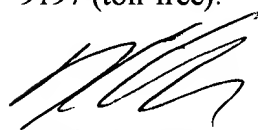
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:30 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 703-872-9306.

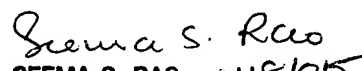
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see [portal.uspto.gov](http://portal.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

April 15, 2005

  
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SUPERVISORY PATENT EXAMINER  
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